

Greenhouse Gas Reporting Rule Advisory Committee
Meeting Notes for April 7, 2009
(Seventh Meeting)

Location: Association of Washington Business, Olympia

Time: 9:00 AM – 4:00 PM

Meeting Objectives:

- Brief overview of EPA's draft reporting rule
- Review and comment on draft rule language for the following topics:
 - Emissions from mobile sources within Washington
 - Report consistency
 - Simplified estimation methods
 - Quantification methods
 - Report content and submission requirements
 - Document retention
 - Reporting fees
- Review next steps in rulemaking process

Advisory Committee Members Present:

Ken Johnson (Weyerhaeuser), Dave Moore (Boeing), Rebecca K. Cate (Climate Solutions), Janet Benish (Costco Wholesale), Allen Jones (Office of Public Instruction), Dale Morin (United Parcel Service), Debbie Gaetz (WA Construction Industry Council), Bryan Bazard (WA Department of General Administration), Greg Hansen (WA Department of Transportation), Conan O'Sullivan (WA Refuse & Recycling Association), Matt Cohen (WSPA, ALCOA, Nucor Steel), Larry Pursley (WA Trucking Association), Collins Sprague (Avista), Dan Zandell (TransAlta), Dave Warren (WA PUD Association), John Chavez (BNSF), Svea Truax (BNSF).

Staff Members Present:

Ecology Staff: Nancy Pritchett, Alan Newman, Neil Caudill, Gail Sandlin; Kathy Sundberg; Kasia Patora

Attorney General's Office: Kay Shirey (Assistant Attorney General).

Observers Present:

Pete Hildebrandt (Alcoa/WSPA), Jess Greenough (Pasco), Llewellyn Mathews (NWPPA), Jody Snyder (LRI), Tim Newcomb (Envirometrics), Grant Nelson (AWB), Allen Fiksdal (EFSEC), Tom Payant (Snohomish PUD), Frank E. Holmes (WSPA), Colleen Murphy (Community Transit), Keith Faretra (PSE), Maren Seibold (Trinity Consultants), Corine Grande (Seattle City Light), Emily McMason (general public), Nicolas Garcia (Tacoma Power).

Morning Session:

The meeting convened at 9:00, with an agenda overview. Discussion questions and comments from the morning sessions are noted below by topic.

Overview of EPA Proposed GHG Reporting Rule

Sarah Rees gave a brief overview of the EPA's proposed Mandatory Greenhouse Gas Reporting Rule and discussed the similarities and differences between this rule and Washington's draft reporting rule. Ecology will submit written comments to EPA during the public comment period. These comments will be available to the public. You can access the presentation at

http://www.ecy.wa.gov/programs/air/pdfs/GHGEPA_reporting_rule.pdf .

Neil Caudill presented overview information and reviewed proposed draft language on the following sections of the draft rule.

WAC 173-441-055 Emissions from Mobile Sources in Washington

C: *When reporting emissions related to hotelling, need to make sure that emissions are the responsibility of the vessel, not the port where it is docked. May not need the second line in 055.*

Q: *Under Option 1 for fleets of on-road motor vehicles in WA state, what does "documented" mean?*

A: A reporter could document their mileage within a log book, GPS or some other verifiable method.

Q: *Why does the draft rule use "must" when describing the options?*

A: Once you choose one of the options as your method for determining if emissions occur in Washington state, you must use the methodology in the rule for that option. We will look at using "must" vs. "may" in these paragraphs.

C: *Under Option 2 in (2)(b), you need to clarify that this is where the fueling takes place, not necessarily where the fuel that is at the fueling station was purchased.*

C: *Under Option 3 (2)(c), you need to clarify that this option is only for rental cars.*

Q: *Under Option 3, how would you assign the on-road emissions?*

A: You would enter the activity data into the calculations. The calculation methods are found in Section 110 of the draft rule. The options just determine what to count. The calculation methods tell you how to do it.

Q: *Under subsection 3 for determining aircraft emissions within Washington state, have we talked to DOT to determine what information is available?*

A: We have not talked to DOT about this. We are phasing in aircraft reporting so it is not required yet.

- C:** *Regarding subsection 4 for determining rail emissions within Washington state, it is difficult for rail operators to account for time. We would prefer to base it on mileage, not time.*
- A:** The intent behind using time is to account for idling.
- Q:** *What if two of the three locomotives are not running? We can't tell you in a timely fashion if they are running. We can more easily tell you gross miles. Time doesn't tell you how much idling, it only tells you how much time the locomotive was in the state.*
- A:** If the locomotive is not running, you would factor in zero.
- C:** *Under subsection 5 for determining marine vessels occur in Washington state, there is potential for double reporting if Canada has a reporting system also. We have a concern with requiring a vessel to report outbound emissions that are technically in Canadian waters.*
- A:** We are following GHG reporting program developments with Canada and other neighboring jurisdictions and will adapt as needed to avoid problems in the future. Currently no neighboring jurisdictions require fleet reporting. If a vessel is going to Canada, they would report nothing.
- Q:** *It appears that marine vessels and other non-road mobile sources do not report during the phasing years. Is that the intent?*
- A:** That is not the intent. The phasing section currently uses the word "site". We will look at the phasing section of the rule to make sure it is clear.
- Q:** *Under subsection (5)(b), it captures all vessels except those going to Vancouver. What is the reportable portion of the voyage?*
- A:** All emissions occurring between the three specified boundary lines for vehicles head to or departing from a Washington port.
- Q:** *What about a Greek ship going to Seattle?*
- A:** A foreign vessel arriving from international waters would start reporting when it crosses the line 3 nautical miles west of Cape Flattery and continue to report emissions until it crosses one of the boundary lines on the way out. If it was going back to Greece, that would be the same 3 nautical miles west of Cape Flattery line. If it was going to Canada it would be one of the specified latitude boundaries. Emissions from the ship while in port would be reported.
- Q:** *Can Ecology provide a map of this system?*
- A:** We will look into it.
- C:** *The statutory authority for mobile sources is based on the transport of people or cargo. Some of the sources listed in section 6 seem overreaching.*

WAC 173-441-065 Report Consistency

- C:** *We suggest removing this section from the rule. It is conceptually attractive, but a practical disaster. Reporting will be a learning process and this will make it difficult and undesirable to change methods. There is no analogue in other air quality rules.*
- A:** The data from this program needs to be compared over time, especially if part of a cap and trade program. We will look into adjusting the section, but consistent reporting is needed.
- Q:** *How does this work with cap and trade?*
- A:** We would need to edit this section when/if cap and trade starts to make it more robust.
- C:** *There should be a limit to the number of years that need to be updated.*
- Q:** *What does “throughout the organization” mean?*
- A:** All emissions of a similar type in Washington, we will clarify.
- Q:** *How are subsidiaries reported?*
- A:** The parent company would report emissions from all subsidiaries.
- C:** *The relationship between tiers need to be more clearly defined.*
- C:** *There needs to be a mechanism to petition for not having to recalculate due to hardship or lack of data.*
- Q:** *Is the 5% threshold based on total emissions or the part that is changed?*
- A:** The part that is changed.
- C:** *Other protocols use total emissions.*
- A:** We are aware and will look into it further and clarify.

WAC 173-441-115 Simplified Estimation Methods

You can access the presentation on Simplified Estimation Methods at <http://www.ecy.wa.gov/programs/air/pdfs/GHGDeMinimisPresentation.pdf> .

- Q:** *There is no exclusion de minimis. Is this intended?*
- A:** Yes, simplified estimation methods only, all emissions are to be reported.
- C:** *This is not consistent with the statute “below which you will not report”.*
- A:** It is consistent with our interpretation of the statute and the intent of the legislators to be consistent with other protocols, which do not use exclusion de minimis.

- Q:** *What about refrigerated rail cars that the railroad does not own and does not have operational control over?*
- A:** This is an operational control issue. Whoever has operational control would report them, refrigerated rail cars are not exempt from reporting. We can discuss your particular concerns after the meeting.
- Q:** *The power point example uses a calculation where emissions from new and decommissioned refrigerant systems are prorated over the lifespan of the equipment. If the company expanded the number of units, would the method need to be expanded to include them?*
- A:** Yes, that particular simplified estimation method is designed for companies at steady state. Changes to the inventory would need to be accounted for separately.
- Q:** *Businesses do not normally inventory number of refrigeration units. Since the data is unavailable, the report accuracy will be low. Is there a simpler way?*
- A:** This example is just one approach, simplified estimation methods allow the reporter to create their own method as long as it is defensible and the emissions are within the de minimis limits. Methods exist that do not require a quantity of emissions units.
- Q:** *Has Ecology considered exempting units with a refrigerant capacity below 50 lbs like EPA?*
- A:** We have looked into this and 50 lbs is much too high due to the large GWP of the gases. If we were to establish an exclusion threshold, it would be around 1 lb which is also more consistent with on-road vehicle ac units.
- C:** *Stand alone refrigeration units are small and precharged. They should be excluded from reporting.*
- C:** *I support Ecology's approach to include small refrigerant systems. It is my experience that they can add up to be a major emissions source due to the high GWP of the gases.*
- Q:** *Can a reporter use simplified estimation methods to determine if they qualify for using this provision under the 5% limit?*
- A:** Yes, that is the intent. This is the main concern a verifier would check on for simplified estimation methods – that they are under the 5% limit.
- C:** *We suggest excluding emergency generators. They are only rented for a short period of time (a week or less).*
- A:** This is an operational control issue. Short term rental equipment would be the responsibility of the rental organization, not the renter.
- C:** *It might be a good idea to include a mechanism for designating this in the rule or via contracts.*

Afternoon Session:

Discussion questions and comments from the afternoon sessions are noted below by topic.

Gail Sandlin presented overview information and reviewed proposed draft language on the following section of the draft rule.

WAC 173-441-100 and Appendices A &B

C: *Ecology should wait for a national system of protocols before adopting anything specific. Skip specific protocols now and add it later.*

A: We need some form of specific protocols, and this is what is currently available.

C: *Work on the “stationary combustion” term, perhaps include specifics about fuel.*

Q: *How much freedom is there to choose a tiered method? Do reporters need to use TCR’s flowcharts?*

A: We will clarify. Intent is to use the method with the best available data. The charts are no longer specifically referenced in the rule, but can serve as an aid if you choose.

Q: *Can we use different methods for different sites?*

A: Most likely, just highest tier possible using available data. The only need to gather new data is if the organization cannot calculate using any of the tiers.

C: *The section needs a specific reference to the simplified estimation methods section.*

C: *Clarify Table 2 to be clear that it is process emissions.*

C: *Look at EPA methods for petroleum.*

C: *Industrial wastewater is too broad and should be excluded. Could put as an appendix or look at other methods such as EPA.*

C: *Ecology will be adding a Tier A2 for indirect emissions.*

Q: *What is the fuel mix report? What do we do with specified renewable power?*

A: Utilities disclose emissions to CTED and default power pool data is used for unknowns. There are uncertainties with all indirect emissions methods, but we are trying to give reporters choices that may be more reflective of their actual emissions as well as basic methods.

C: *CTED uses a default factor for coal even if CEMS available.*

C: *Please send a weblink to the CTED report.*

C: *It seems like the focus should be on electricity consumption, not CO2e for indirect emissions. IT is difficult to get fuel mix reports from utilities and the factors are inaccurate.*

Q: *Are the refrigerants listed the only reportable gases?*

A: For now, all.

Kathy Sundberg presented overview information and reviewed proposed draft language on the following sections of the draft rule.

WAC 173-441-120 and 125 Report Content and Submission Requirements; Document Retention

Q: *What is a site and how does it apply to mobile sources?*

A: Similar to a facility. Mobile sources would be grouped by type. We will clarify.

C: *Use facility then, we prefer clean air act terms.*

A: The committee has previously discussed that due to statute language this would create circular definitions.

Q: *What is the use for including the UBI?*

A: Mostly for site level reporting, less clear for organization level reporting.

Q: *This is the only place that talks about parent companies. Where did it come from? Remove the reference to make it consistent with section 050.*

A: Came from WCI. We will clarify, but the intent is that the parent company report for subsidiaries.

C: *Requiring the parent company to report for subsidiaries is not clear in section 050. The parent company may have varying points of control that could make this difficult.*

C: *Operational control is problematic. It is based on accounting methods that may not work for emissions reporting. Multiple groups may be able to track things, which could lead to double reporting.*

C: *For mobile sources keep the reportable information basic, like fuel characteristics.*

Q: *What are “non-road mobile sources”? We need a definition, perhaps from other rules.*

A: It means all mobile sources except on-road motor vehicles. We will clarify.

C: *Use “marine vessels” not “marine vehicles”.*

- Q:** *Have we discussed reporting unit information before? It should not be included due to confidentiality concerns. What would it be used for? This would make the need for exclusion de minimis for combustion greater.*
- A:** The intent is to get information on larger units or collections of smaller units. EPA is requiring similar information to check report data and TCR uses the system to share information with verifiers.
- C:** *If that is the case then reporters subject to verification should just give the data to the verifier and reporters under 25,000 MT might need to supply the data if requested. If required the rule should specify that the information is non-discloseable.*
- Q:** *What is the Inventory Management Plan, where does it come from, what is it used for, and why does Ecology need it? It shouldn't be in the rule, internal document only.*
- A:** From the criteria pollutant inventory system with some WCI language. It is a tool for the reporter and the process should be done anyway to achieve quality data.
- Q:** *What does "systems of internal audit" mean? Internal or external?*
- A:** Quality control is internal, quality assurance is external.
- C:** *The verifier cannot help, just certify.*
- C:** *Need to clarify document retention language. We want 5 years not 7.*
- C:** *10 days is too short of a time to provide a report.*
- Q:** *What is the log in section 125(3)(l)?*

Nancy Pritchett presented overview information and reviewed proposed draft language on the following sections of the draft rule.

WAC 173-441-130 Reporting Fees

You can access the presentation on Reporting Fees at <http://www.ecy.wa.gov/programs/air/pdfs/GHGFees.pdf>.

- C:** *Instead of 3rd party verification, have Ecology review the data and increase the fees accordingly.*
- A:** This is not considered a viable option even if the fees were increased. Possibly verification could be a role of the local air authorities.
- Q:** *The fees are based on FTE levels, which seem low. How will Ecology look for organizations that should report but are not? How expansive will the search be?*
- A:** We are working on figuring this out.

- Q:** *The rule needs to spell out what goes into the workload analysis. Will the rule contain a mechanism to change the workload analysis?*
- A:** We do not plan to specifically include it in the rule.
- Q:** *Technical assistance could be significant. Is that included? How about rule development?*
- A:** We will check with the statute about including technical assistance, but rule development is not included.
- Q:** *Would an organization that is a reporter under both the source and combination of sources and fleet of on-road motor vehicles thresholds pay the base reporter fee once or twice?*
- A:** Once.
- Q:** *How would mobile sources other than the on-road fleets be charged?*
- A:** As part of the source or combination of source category, so a base fee plus the emissions component.
- Q:** *Is the 50% emissions component for sources > 25,000 MT intended to reflect that they are 50% of the work?*
- A:** It is an initial rough assumption.
- Q:** *Will there be accounting of the workload model to see if this is accurate? If not will it be adjusted?*
- A:** Yes, the plan is to track and change as needed.
- C:** *The fee schedule and payment sections need to include specific dates.*

Next Steps in the Rule Making Process

Nancy Pritchett presented information on the rule making timeline based on the Administrative Procedures Act under Chapter 34.05 RCW. You can access the presentation materials at <http://www.ecy.wa.gov/programs/air/pdfs/GHGRuleTimeline.pdf>.

- Q:** *Will Ecology comment on the EPA rule and will they be public?*
- A:** Yes.
- C:** *We want another meeting. More conversation is more important than adoption time, December is the same as September. There are public perception problems with stopping the process now.*
- A:** We do not have time. It is a long public process to adopt a rule and we need to finish this year since reporting is required for 2009 emissions.
- Q:** *What if there are significant changes after the CR-102?*
- A:** We would pull the rule and restart the process.

Q: *What about the companion documents to the CR-102?*

A: Ecology will comply with all laws and internal policies regarding the documents.

Q: *How will this work with EPA's rule?*

A: We will continue to work on it, but must move forward.

C: *Send out more copies of the timeline.*

Q: *What about outreach?*

A: We are looking to do more workshops, expanded for source or combination of sources group, but need to get the rule more settled first.

Q: *Can you compile and share comments with the group?*

A: Yes, get comments to Nancy by Friday April 17th.

C: *Eight days is not enough time.*

Meeting Adjournment:

4:00